IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION No. 549 of 2005

Between:

Bhagyanagar Studios, Road No. 14, Banjara Hills Hyderabad
rep by its Managing Partner, Badam Rama Swamy,
S/o. Late Venkataiah, r/o. Banjara Hills, Hyderabad.

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad, represented by its Commissioner, Tank Bund Road, Hyderabad.
2 Government of Andhra Pradesh, rep by its Principal Secretary, Revenue Department, Secretariat Buildings, Hyderabad.
3 The District Collector, Hyderabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, order or direction, one more particularly in the nature of writ of "Mandamus" declaring the action of the 1st respondent in not receiving or considering the application of the petitioners seeking building permission in respect of the petitioner's land in Sy.No. 129/73, Shaikpet Village, Road No. 14 Banjara Hills, Hyderabad by insisting on the production of a 'no objection certificate' from the District Collector, Hyderabad as being illegal, arbitrary, unconstitutional and contrary to law declared by this Court and consequently direct the 1st respondent to receive, consider and process the petitioners application for construction in the said plot without insisting on a no objection certificate from the 3rd respondent and issue sanction for the construction of the building in the said premises.

Counsel for the Petitioner : Mr.S.NIRANJAN REDDY

Counsel for Respondent No.1: G.JYOTHI KIRAN, SC for M.C.H.
Counsel for Respondents 2 & 3 : G.P. FOR REVENUE

The Court at the stage of admission, made the following :

ORDER:

Heard the learned counsel for the petitioner, learned Standing Counsel for respondent No.1 and the learned Government Pleader for Revenue appearing for Respondents 2 and 3 and with their consent, the main writ petition itself is disposed of at the stage of admission.

Questioning the action of the first respondent in not receiving the application of petitioner for building permission in respect of property bearing Survey No.129/73, Shaikpet village, Road No.14, Banjara Hills, Hyderabad, the present writ petition is filed.

The case of the petitioner is that the property admeasuring Ac.5.26 guntas in Survey No.129/73, Road No.14, Banjara Hills, Hyderabad was purchased by one Smt.Saroja Devi under registered sale deed bearing Doc.No.1642 of 1964 dated 4.9.1964 and later she had assigned the said land in favour of petitioner. It is stated that the petitioner has been in continuous possession and enjoyment of the property by constructing shooting floors and running a Cine Studio for the past several years. The grievance of the petitioner in this writ petition is that it has made an application to the first respondent seeking sanction of permission to construct three additional shooting floors with certain modifications to the existing structure, but the first respondent declined to receive the said application on the ground that the application should accompany a 'no objection certificate' issued by the third respondent-District Collector. Challenging the said action, the present writ petition is filed seeking a direction to the respondents-Corporation to receive the application of the petitioner and accord building permission without insisting on 'no objection certificate' from the District Collector.

The learned counsel for petitioner submits that insistence on a 'no objection certificate' from the District Collector is illegal and contrary to the decisions of this Court in **DISTRICT COLLECTOR v. N.KRISHNA MOHAN** and **HYDERABAD POTTERIES PRIVATE LIMITED v. DISTRICT COLLECTOR, HYDERABAD.** He

would also submit that this Court categorically held that obtaining of No Objection Certificate from the Collector arises only when any law presupposes. He also submits that application for grant of permission to construct a building is conferred upon the Commissioner of Municipal Corporation to consider the same by taking into consideration the documents filed by the applicant along with the application, including the permission already granted by the Corporation to the applicant earlier.

On the other hand, the learned counsel appearing for respondents submits that there is a title dispute in respect of the property in question, and that the matter is pending before this Court in C.C.C.A. No. 22 of 1999. However, the learned counsel for first respondent-Corporation submits that they will receive the application of the petitioner for building permission, but they will issue notices to the respondents 2 and 3 calling for their objections with regard to title in respect of the property in question.

In view of the fact that there is title dispute in respect of the property in question, which is pending in C.C.C.A. No. 22 of 1999 before this Court, and having regard to the fact that the petitioner is seeking permission from the first respondent Corporation for construction of three additional floors, I deem it just and appropriate to dispose of the writ petition with the following directions:

In the aforesaid circumstances, the writ petition is disposed of directing the first respondent to receive the application of the petitioner for construction of building in terms of the judgment in HYDERABAD POTTERIES PRIVATE LIMITED v. DISTRICT COLLECTOR, HYDERABAD (supra) and consider the same in accordance with law. It is open for respondents 2 and 3 to raise their objections with regard to title in respect of the property in question for sanction of building permission in favour of the petitioner before the first respondent-Corporation, and if any objections are raised, the first respondent-Corporation shall consider the said objections, before passing appropriate orders on the application of the petitioner for building permission.

With the directions as above, the writ petition is disposed of.
No costs.

N.V.RAMANA, J

Date: 24.1.2005

DA/KSR

To

1 The Commissioner, Municipal Corporation of Hyderabad, Tank Bund Road, Hyderabad.
2 The Principal Secretary, Government of Andhra Pradesh, Revenue Department, Secretariat Buildings, Hyderabad.
3 The District Collector, Hyderabad District.

4 Two CCs to the G.P. for Revenue, High Court Buildings, Hyderabad (OUT).

5 Two CD copies.